

**SENATE JOURNAL
63RD LEGISLATURE
TWENTY-EIGHTH LEGISLATIVE DAY**

Helena, Montana
February 8, 2013

Senate Chambers
State Capitol

Senate convened at 1:02 p.m. President Essmann presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present. Quorum present.

BILLS AND JOURNALS (Buttrey, Chair):

2/8/2013

Correctly printed: **SB 23, SB 255, SB 256, SJR 8, SJR 10, SJR 12, HB 17, HB 60, HB 137, HJR 1.**

Correctly engrossed: **SB 14, SB 81, SB 149, SB 171, SB 175, SB 196**

Correctly enrolled: **SR 3.**

Transmitted to the House: **SB 11, SB 105, SB 144.**

Examined by the sponsor and found to be correct: **SR 3.**

Signed by the Secretary of the Senate at 2:15 p.m., February 7, 2013: **SB 29, SB 46, SB 64.**

Signed by the President at 2:40 p.m., February 7, 2013: **SB 29, SB 46, SB 64.**

Signed by the Speaker at 4:25 p.m., February 7, 2013: **SB 29, SB 46, SB 64.**

Delivered to the Governor for approval at 9:39 a.m., February 8, 2013: **SB 29, SB 46, SB 64.**

Signed by the Secretary of the Senate at 9:00 a.m., February 8, 2013: **SR 3.**

Signed by the President at 9:00 a.m., February 8, 2013: **SR 3.**

Delivered to the Secretary of State at 10:53 a.m., February 8, 2013: **SR 3.**

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (T. Brown, Chair):

2/7/2013

SB 86, introduced bill, be amended as follows:

1. Page 2, line 20.

Following: "Notice"

Strike: "to the" through "furnished"

2. Page 2, line 21.

Following: "sale"

Insert: "to the owner or person at whose request the feed or material was furnished and to any other person holding a lien on the animals"

And, as amended, do pass. Report adopted.

SB 211, introduced bill, be amended as follows:

1. Page 1, line 22.

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Following: "auditor"

Insert: "during regularly scheduled financial compliance audits"

And, as amended, do pass. Report adopted.

FISH AND GAME (Brenden, Chair):

2/7/2013

SB 118, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Following: "DATE"

Insert: " AND A TERMINATION DATE"

2. Page 1, line 22.

Strike: "Applicants" through "license."

3. Page 2, line 3.

Following: page 2, line 2

Insert: "NEW SECTION. **Section 4. Termination.** [This act] terminates December 31, 2023."

And, as amended, do pass. Report adopted.

SB 197, introduced bill, be amended as follows:

1. Title, page 1, line 4.

Following: "CERTIFICATE FOR"

Insert: "CERTAIN"

2. Page 1, line 11.

Strike: "of any age"

Insert: "who is 9 years of age or older and"

3. Page 1, line 20.

Strike: "18"

Insert: "21"

4. Page 2, line 7.

Strike: "license preference system"

Insert: "drawing with a limited quota"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Arntzen, Chair):

2/7/2013

SB 202, introduced bill, be amended as follows:

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1. Title, line 7.

Following: "GRADE"

Insert: "CROSSING"

2. Page 3, line 9.

Strike: "stop and"

Insert: "yield the right-of-way, slowing down or stopping if necessary, to a pedestrian crossing the roadway within a marked crosswalk or within an unmarked crosswalk at an intersection. If the operator stops, the operator shall"

3. Page 3, line 25 through line 28.

Strike: "a driver" on line 25 through "trains" on line 28

Insert: "a person may not operate a vehicle into a crosswalk, intersection, or railroad grade crossing unless there is sufficient space on the other side of the crosswalk, intersection, or railroad grade crossing to accommodate the vehicle without obstructing or impeding pedestrians, vehicles, or movement of rail traffic"

And, as amended, do pass. Report adopted.

SB 225, do pass. Report adopted.

JUDICIARY (Murphy, Chair):

2/8/2013

SB 9, do pass. Report adopted.

SB 160, introduced bill, be amended as follows:

1. Page 1, line 16.

Strike: "obtain"

Insert: "seek reasonable"

Following: "apparent"

Insert: "acute"

2. Page 1, line 17.

Strike: "care"

Insert: "physical custody"

Following: "previously"

Insert: "purposely or knowingly"

3. Page 1, line 18.

Strike: "the"

Insert: "a"

4. Page 1, line 19.

Strike: "care"

Insert: "physical custody"

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5. Page 1, line 22.

Following: "drugs"

Insert: "in violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-465"

6. Page 1, line 24.

Following: "failing to"

Insert: "attempt to"

Following: "of"

Insert: "nonorganic"

7. Page 1, line 25.

Following: line 24

Insert: "(2) A person may not be charged under subsection (1)(b) or (1)(c) if the person placed the child in the other person's custody pursuant to a court order."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

SB 187, do pass. Report adopted.

TAXATION (Tutvedt, Chair):

2/8/2013

SB 179, introduced bill, be amended as follows:

1. Title, page 1, line 6.

Strike: "AND WITHHOLDING"

2. Title, page 1, line 7 through line 9.

Strike: "ELIMINATING" on line 7 through "ENTITIES;" on line 9

3. Title, page 1, line 10.

Strike: "AND INTEREST"

4. Title, page 1, line 11.

Strike: "AMENDING SECTION 15-30-3313, MCA;"

5. Title, page 1, line 12.

Following: "DATE AND"

Insert: "AN"

Strike: "DATES"

Insert: "DATE"

6. Page 1, line 16 through page 4, line 2.

Strike: section 1 in its entirety

Renumber: subsequent sections

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7. Page 4, line 4.

Strike: "Each"

Insert: "Subject to subsection (4), each"

8. Page 4, line 9.

Following: "is subject to"

Insert: "a"

Strike: "and interest"

9. Page 4, line 14.

Following: "demonstrates that"

Insert: "software that satisfies the conditions of this section is not readily available or that"

10. Page 4, line 19.

Strike: "2"

Insert: "1"

11. Page 4, line 21.

Strike: "2"

Insert: "1"

12. Page 4, line 29.

Strike: "(1)"

13. Page 4, line 29 through line 30.

Strike: "December" on line 29 through "2013" on line 30

Insert: "[the effective date of this act]"

14. Page 5, line 1.

Strike: subsection (2) in its entirety

And, as amended, do pass. Report adopted.

SB 209, introduced bill, be amended as follows:

1. Page 3, line 3.

Strike: "undertakings"

Insert: "capital projects"

2. Page 3, line 5.

Following: "district"

Insert: ", except four of the five board members shall conclude that the projected useful life of the public facilities, improvements, or capital projects will be greater than the term of the bonds that were issued to construct the public facilities, improvements, or capital projects"

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3. Page 3, line 10.

Following: "determines that the"

Insert: "annual"

Strike: "is not greater than"

Insert: "payment on the bonds issued will not cumulatively exceed"

And, as amended, do pass. Report adopted.

HB 32, be concurred in. Report adopted.

HB 111, be concurred in. Report adopted.

MESSAGES FROM THE OTHER HOUSE

Senate joint resolution concurred in and returned to the Senate: 2/7/2013

SJR 2, introduced by Tutvedt

House bills passed and transmitted to the Senate for concurrence: 2/7/2013

HB 27, introduced by Washburn

HB 78, introduced by Regier

HB 133, introduced by Berry

HB 214, introduced by Wagoner

HB 217, introduced by Howard

HB 251, introduced by Ingraham

HB 258, introduced by B. Smith

HB 296, introduced by Ingraham

HB 79, introduced by Berry, requiring adoption by an affirmative roll call vote of two-thirds of all the members of the Legislature, passed the House and was transmitted to the Senate with the following vote: 2/7/2013

Yeas - 87

Nays - 7

House joint resolution passed and transmitted to the Senate for concurrence: 2/7/2013

HJR 5, introduced by O'Neil

MOTIONS

Senator Facey moved **SB 107** be returned to the Judiciary committee for the purpose of an amendment. Without objection, so ordered.

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FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 257, introduced by L. Jones, Arntzen, Cook, Hollandsworth, Ripley, referred to Education and Cultural Resources.

SB 258, introduced by Wittich, Ankney, Arthun, B. Bennett, Berry, Blasdel, Coffin, Dudik, Eck, Facey, Fitzpatrick, Hill, Hollandsworth, Hollenbaugh, Hunter, Jacobson, Jent, Keane, Larsen, MacDonald, Reichner, Sesso, Tropila, Tutvedt, Williams, Windy Boy, referred to State Administration.

SB 259, introduced by Arntzen, Laszloffy, referred to Judiciary.

SB 260, introduced by Thomas, Boulanger, referred to Fish and Game.

SB 261, introduced by Malek, referred to State Administration.

SB 262, introduced by Brenden, referred to Judiciary.

SB 263, introduced by Hamlett, Connell, referred to Natural Resources.

SB 264, introduced by Arntzen, referred to Energy and Telecommunications.

SB 265, introduced by Jackson, referred to Natural Resources.

SB 266, introduced by Rosendale, referred to State Administration.

SB 267, introduced by Thomas, Phillips, Wanzenried, referred to Judiciary.

SB 268, introduced by Thomas, Ballance, Boulanger, Ehli, referred to Agriculture, Livestock and Irrigation.

SB 269, introduced by Walker, referred to Finance and Claims.

SB 270, introduced by Buttrey, Caferro, Fitzpatrick, Noonan, Priest, referred to Public Health, Welfare and Safety.

SB 271, introduced by Thomas, referred to Local Government.

SB 272, introduced by Windy Boy, B. Bennett, Boland, Caferro, Dudik, Gursky, Hamlett, Kaufmann, Lieser, Pease-Lopez, Peppers, Pierson, B. Smith, Stewart-Peregoy, Vuckovich, Whitford, referred to Public Health, Welfare and Safety.

SB 273, introduced by Stewart-Peregoy, Augare, Brockie, Pease-Lopez, Peppers, B. Smith, Whitford, Windy Boy, referred to State Administration.

SB 274, introduced by Blewett, referred to Judiciary.

SB 275, introduced by Buttrey, Arthun, Edmunds, Hagan, Ingraham, Jent, Larsen, McCarthy, Mehlhoff, Williams, Wittich, referred to Highways and Transportation.

SB 276, introduced by Arthun, Larsen, Regier, referred to Energy and Telecommunications.

The following House bills were introduced, read first time, and referred to committees:

HB 67, introduced by B. Bennett (by request of the Commissioner of Political Practices), referred to Judiciary.

HB 129, introduced by Gibson, referred to Judiciary.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Wittich moved the Senate resolve itself into a Committee of the Whole for

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consideration of business on second reading. Motion carried. Senator T. Brown in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 107 - Senator Augare moved **HB 107** be concurred in. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Dick, Blewett, Boulanger, Brenden, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sesso, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Wittich, Mr. President.

Total 43

Nays: Barrett Debby, D. Brown, Sales, Sonju, Vincent, Walker, Webb.

Total 7

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 112 - Senator Blewett moved **SB 112** do pass. Motion carried as follows:

Yeas: Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, T. Brown, Caferro, Driscoll, Facey, Fielder, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Murphy, Olson, Peterson, Phillips, Priest, Sesso, Stewart-Peregoy, Thomas, Tropila, Tutvedt, Van Dyk, Vuckovich, Wanzenried, Windy Boy, Wittich, Mr. President.

Total 33

Nays: Arntzen, Arthun, Brenden, D. Brown, Buttrey, Jackson, Jones, Lewis, Moore, Ripley, Rosendale, Sales, Sonju, Taylor, Vincent, Walker, Webb.

Total 17

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 58 - Senator Facey moved **HB 58** be concurred in. Motion **failed** as follows:

Yeas: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk,

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Vuckovich, Wanzenried.

Total 20

Nays: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President.

Total 30

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 58 - Senator Wittich moved **HB 58** be **indefinitely postponed**. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Facey, Fielder, Jackson, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President.

Total 32

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Tropila, Van Dyk, Vuckovich, Wanzenried.

Total 18

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 120 - Senator Buttrey moved **SB 120** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Boulanger, Brenden, T. Brown, Buttrey, Driscoll, Fielder, Jackson, Jones, Larsen, Lewis, Moore, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Tutvedt, Vincent, Vuckovich, Walker, Webb, Windy Boy, Wittich, Mr. President.

Total 32

Nays: Barrett Dick, Blewett, D. Brown, Caferro, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Malek, Murphy, Phillips, Sesso, Thomas, Tropila, Van Dyk, Wanzenried.

Total 18

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Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 96 - Senator Tutvedt moved **SB 96** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Hamlett, Jackson, Jent, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President.

Total 34

Nays: Barrett Dick, Blewett, Caferro, Driscoll, Facey, Jergeson, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Tropila, Van Dyk, Vuckovich, Wanzenried.

Total 16

Absent or not voting: None.

Total 0

Excused: None.

Total 0

SB 138 - Senator Wittich moved **SB 138** do pass. Motion carried as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.

Total 29

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy.

Total 21

Absent or not voting: None.

Total 0

Excused: None.

Total 0

Senator Wittich moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Essmann presiding. Chair T. Brown moved the Committee of the Whole report be adopted. Report adopted as follows:

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Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Driscoll, Fielder, Jackson, Jent, Jergeson, Jones, Larsen, Lewis, Moore, Murphy, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Walker, Webb, Windy Boy, Wittich, Mr. President.
Total 39

Nays: Blewett, Caferro, Facey, Hamlett, Kaufmann, Keane, Malek, Phillips, Sesso, Vuckovich, Wanzenried.
Total 11

Absent or not voting: None.
Total 0

Excused: None.
Total 0

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 23 passed as follows:

Yeas: Arntzen, Arthun, Barrett Debby, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Fielder, Jackson, Jones, Lewis, Moore, Olson, Peterson, Priest, Ripley, Rosendale, Sales, Sonju, Taylor, Thomas, Tutvedt, Vincent, Walker, Webb, Wittich, Mr. President.
Total 28

Nays: Augare, Barrett Dick, Blewett, Caferro, Driscoll, Facey, Hamlett, Jent, Jergeson, Kaufmann, Keane, Larsen, Malek, Murphy, Phillips, Sesso, Stewart-Peregoy, Tropila, Van Dyk, Vuckovich, Wanzenried, Windy Boy.
Total 22

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SJR 8 passed as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr.

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President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 17 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: None.

Total 0

HB 137 concurred in as follows:

Yeas: Arntzen, Arthun, Augare, Barrett Debby, Barrett Dick, Blewett, Boulanger, Brenden, D. Brown, T. Brown, Buttrey, Caferro, Driscoll, Facey, Fielder, Hamlett, Jackson, Jent, Jergeson, Jones, Kaufmann, Keane, Larsen, Lewis, Malek, Moore, Murphy, Olson, Peterson, Phillips, Priest, Ripley, Rosendale, Sales, Sesso, Sonju, Stewart-Peregoy, Taylor, Thomas, Tropila, Tutvedt, Van Dyk, Vincent, Vuckovich, Walker, Wanzenried, Webb, Windy Boy, Wittich, Mr. President.

Total 50

Nays: None.

Total 0

Absent or not voting: None.

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Total 0

Excused: None.

Total 0

SPECIAL ORDERS OF THE DAY

Senator Jones thanked the pages for their service this week.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Wittich moved that the Senate adjourn until 8:00 a.m., Saturday, February 9, 2013, the twenty-ninth legislative day. The motion carried.

Senate adjourned at 3:11 p.m.

MARILYN MILLER
Secretary of the Senate

JEFF ESSMANN
President of the Senate